

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
MIDLAND DIVISION**

IN RE	§	
	§	CASE NO. 13-70104-RBK
ASHTON GROVE, LC	§	
	§	CHAPTER 7
DEBTOR	§	

**APPLICATION TO SELL REAL PROPERTY OF THE ESTATE  
FREE AND CLEAR OF LIENS AND OTHER INTERESTS  
AND FOR PAYMENT OF FEES AND EXPENSES OF SALE  
(4370 COVINGTON WAY, NORMAN OK 73072)**

**This pleading requests relief that may be adverse to your interests. If no timely response is filed within twenty-one (21) days from the date of service, the relief requested herein may be granted without a hearing being held.**

**A timely filed response is necessary for a hearing to be held.**

TO THE HONORABLE RONALD B. KING, CHIEF U. S. BANKRUPTCY JUDGE:

COMES NOW Randolph N. Osherow ("Trustee"), the chapter 7 trustee for the above-captioned and numbered case, and files this *Application to Sell Real Property of the Estate Free and Clear of Liens and Other Interests and for Payment of Fees and Expenses of Sale (4370 Covington Way, Norman, OK 73072)* (hereinafter the "Application"), and in support thereof would respectfully show the Court as follows:

**I.  
BACKGROUND FACTS**

1. This case was filed as a chapter 11 bankruptcy on August 12, 2013. On July 8, 2015, the case was converted to chapter 7, at which time Randolph N. Osherow ("Trustee") was appointed as trustee and continues to act in that capacity.

2. Ashton Grove, LC ("Debtor") is the developer of the approximately 160-acre Ashton Grove planned unit development situated in the City of Norman, Oklahoma ("PUD"). Approximately 31 acres out of the PUD have been designated as common areas and conveyed to Ashton Grove Master Association, an Oklahoma not-for-profit corporation. Although the PUD master plan contemplates development in as many as seven phases, only two phases containing approximately 58 acres and 74 lots are platted. The Debtor as developer owns some of these platted lots.

3. The Trustee seeks ultimately to sell the Debtor's entire interest in the PUD to a developer, but has received an offer to purchase a certain platted lot comprising approximately 0.72 acres locally known as 4370 Covington Way, Norman, Oklahoma 73072 (the "Real Property"). The property is more particularly described as Ashton Grove 1, Lot 21, Block 1, Cleveland County, Oklahoma. The Trustee intends to sell the Real Property and apply the proceeds against secured debt and reduce or remove the associated liens, together with any priority encumbrances for ad valorem taxes, which is likely to facilitate the sale of the Debtor's remaining interest in the asset. The Real Property is wholly owned by the bankruptcy estate.

## **II. PROPERTY TO BE SOLD**

4. The Real Property is to be sold AS IS and WHERE IS to DMB Revocable Trust for \$180,000.00 cash.

## **III. SALE PROCEDURE**

5. Trustee seeks to sell the Real Property by private sale to DMB Revocable Trust. If, however, a timely objection to this motion to sell is filed, an auction sale will be conducted at the United States Bankruptcy Court, Hipolito F. Garcia Federal Building, 615 East Houston Street, Courtroom No. 1, San Antonio, Texas, on the date and time to be set by the Court to allow the objecting party to bid on the Real Property. Notice of the scheduled hearing will be provided by the trustee to all parties-in-interest pursuant to Bankruptcy Rule 9014.

6. Additional bids must be in increments of \$10,000.00.

7. The Real Property will be sold free and clear of all liens and other interests, except for the first priority lien held by Bank of Oklahoma and any past-due ad valorem taxes, which shall be paid at closing.

8. Any purchaser shall execute a closing acknowledgment. A sample of the closing acknowledgment will be provided to any potential bidder.

9. Future ad valorem taxes will continue to accrue to the purchaser. All past-due ad valorem taxes shall be paid at closing following a determination by Cleveland County, Oklahoma, of the amount to be apportioned to bankruptcy estate. In addition, all ordinary and standard closing costs shall be paid at closing. Further, there shall be paid the statutory Trustee's fee pursuant to 11 U.S.C. § 326(a). Therefore, if the Real Property is sold for \$180,000.00, Trustee's commission shall be \$9,000.00.

10. This sale by itself will not pay the entire the secured debt owed to Bank of Oklahoma. However, the sale is needed to reduce the secured claims against the remaining property to be sold by the Trustee. Within ten (10) days before closing of this sale, Bank of Oklahoma shall provide a payoff to the Trustee. The Trustee requests that no further order be necessary for the Trustee to deliver payment of the sale proceeds to Bank of Oklahoma.

#### **IV. TRUSTEE'S ESTIMATED VALUE AND BASIS THEREOF**

11. There have been previous sales during the chapter 11 case and the chapter 7 case. Thus, Trustee has some knowledge of the value of the lots and feels this is a fair offer. However, the fair market value will be determined by the sale of the Real Property.

#### **V. MARKETING OF SAID PROPERTY**

12. All creditors, parties in interest, and parties requesting notice have been served with this Application to Sell Property.

#### **VI. TAX CONSEQUENCES**

13. The Trustee does not believe that the bankruptcy estate will suffer any negative tax consequences as a result of the sale.

#### **VII. LIENS**

14. The Trustee knows of no liens on the property except those of the Bank of Oklahoma and potential ad valorem tax liens.

**VIII.**  
**ESTIMATED COST OF SALE AND NET TO THE ESTATE**

15. The amount of total general (priority and unsecured) claims in the estate is in excess of \$5,000,000.00.

16. Bank of Oklahoma is owed approximately \$267,629.66 with a per diem of \$15.79. This sale obviously will not satisfy the Bank of Oklahoma's debt in full. However, this sale will greatly benefit the estate.

17. It is Trustee's position that a sale in this manner is in the best interest of the estate and will net the estate the most money for distribution to creditors. A copy of this Application is being forwarded to all creditors in accordance with Local Rule 9014.

WHEREFORE, PREMISES CONSIDERED, Trustee respectfully prays that the Court enter an order approving the sale under the terms and conditions set forth herein, approving payment of fees and expenses of sale, and finding that the Real Property is wholly owned by the bankruptcy estate. In addition, Trustee prays for any further relief, both general and special, legal and equitable, to which he may show himself justly entitled.

Respectfully submitted,

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By: /s/ Steve Turner

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CHAPTER 7 TRUSTEE

CERTIFICATE OF SERVICE

By my signature below, I hereby certify that on the 11th day of October, 2017, a true and correct copy of the foregoing document was served upon all parties on the attached mailing matrix via electronic means as listed on the Court's ECF noticing system or by regular first class mail.

/s/ Steve Turner

Steve Turner

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